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13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN JOSE DIVISION

16 FRANKLIN S. CIBULA CORPORATION,)
17 MARK H. CIBULA as Executor of the)
18 Estate of Franklin S. Cibula,)

19 Case No. 11-CV-05383-LHK

20 Plaintiffs)

21 v.) STIPULATION FOR DISMISSAL AND
22 } PROPOSED ORDER OF DISMISSAL

23 UNITED STATES DEPARTMENT OF)
24 TREASURY, INTERNAL REVENUE)
25 SERVICE, SHERMAN M. UNELL,)
26 Trustee of the Sherman M. Unell)
27 Declaration of Trust dated 2/14/1986, and)
28 ROES 1 to 50.)

29 Defendants.)

30 IT IS HEREBY STIPULATED AND AGREED AND RESPECTFULLY REQUESTED

31 by and between the Plaintiff, Franklin S. Cibula Corp. and Mark H. Cibula, Executor, and

32 Defendants, United States Department of Treasury, IRS, and the real party in interest, United

33 States of America, as reflected by the signatures of their respective counsel as set forth below:

34 1. That the parties have entered into a settlement which resolves this case in its entirety.

35 2. That the parties request a period of ninety days to consummate all settlement terms,

36 which includes the sale of properties and a payment from those sales.

37 3. That this action, be dismissed with prejudice, provided however, that if either party

38 notifies this Court on or before ninety-days from entry of an Order of Dismissal of this case,

that the settlement has not been consummated, then this order shall stand vacated and this case shall forthwith be restored to the calendar and a case management conference scheduled.

3 4. That the Court retain jurisdiction over this matter for the purpose of enforcing the
4 terms of the settlement, including entry of judgment, if necessary. See Kokonen v. Guardian Life
5 Ins. of America, 511 U.S. 375 (1994).

5. The parties agree to bear their respective costs, including any possible attorneys' fees
or other expenses of this litigation.

IT IS SO STIPULATED:

MELINDA HAAG
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CYNTHIA STIER
Assistant U.S. Attorney
Attorneys for the United States of America
Tax Division

KENT W. MEYER
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Roseville, CA 95678
Attorney for Franklin S. Cibula &
Mark Cibula

ORDER

Upon the stipulation of Plaintiff, Franklin S. Cibula Corp. and Mark H. Cibula, Executor, and Defendants, United States Department of Treasury, IRS, and the real party in interest, United States of America, and pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, it is HEREBY ORDERED, ADJUDGED and DECREED that this action is hereby dismissed with prejudice, provided however, that if either party notifies this Court on or before September 24, 2012, that the settlement has not been consummated, then this order shall stand vacated and this case shall forthwith be restored to the calendar and a case management conference scheduled.

28 Franklin S. Cibula, et al. v. United States Dept.
of Treasury, et al., US, Case No. 11-5383-LHK
Stip. Of Dismissal and [proposed] Order

1 IT IS FURTHER ORDERED that this Court retains jurisdiction over this matter for the
2 purpose of enforcing the terms of the settlement, including entry of judgment, if necessary. See
3 Kokonen v. Guardian Life Ins. of America, 511 U.S. 375 (1994). The Clerk shall close the file.

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5 ORDERED this 25 day of June, 2012, at San Jose,
6 California.

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8 HONORABLE LUCY H. KOH
United States District Judge

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of Treasury, et al., US, Case No. 11-5383-LHK
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